



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHANA SCHWARTZ,

Plaintiff,

- against -

MORGAN STANLEY DW, INC.,

Defendant.

MEMORANDUM
OPINION AND ORDER

06 Civ. 4906 (DAB) (RLE)

RONALD L. ELLIS, United States Magistrate Judge:

On June 24, 2009, Plaintiff filed a motion to compel the deposition of non-party Eric R. Lupo. Plaintiff indicates that Lupo was personally served with the subpoena to appear for a deposition on June 3, 2009. (Mem. in Supp. of Pl.'s Mot. to Compel Deposition of Eric R. Lupo, June 24, 2009 at 1 & Ex. A.) The date of the deposition was set for June 17, 2009, and, although she did not reach Lupo, Plaintiff's counsel attempted to confirm his attendance in advance. (*Id.*) Lupo failed to appear on that date. (*Id.*) On July 2, 2009, Lupo was ordered to respond to the instant motion on or before July 10, 2009. Lupo has failed to oppose or otherwise respond to the motion, and no other objections have been entered. Plaintiff maintains that Lupo has first-hand knowledge of facts relating to her hostile work environment claim.

Therefore, Plaintiff's motion to compel Lupo's deposition (Doc. No. 46) is **GRANTED**. Lupo is **ORDERED** to agree on a date with counsel and to appear for his deposition on or before **July 31, 2009**.

SO ORDERED this 16th day of July 2009
New York, New York

The Honorable Ronald L. Ellis
United States Magistrate Judge